

UNITED STATES DISTRICT COURT  
DISTRICT OF NORTH DAKOTA

United States of America,  
Plaintiff,  
vs.  
James Warren Garner,  
Defendant.

Case No. 3:22-cr-00010-10

**DEFENDANT'S SENTENCING  
MEMORANDUM**

Defendant, James Warren Garner (“Mr. Garner”), has pled guilty to the offense of Conspiracy to Possess with Intent to Distribute and Distribute a Controlled Substance in violation of 21 U.S.C. § 846 and 841(a)(1). His sentencing hearing is scheduled for August 14, 2023. This Sentencing Memorandum is filed for the Court’s sentencing considerations.

**PLEA AGREEMENT/GUIDELINE CALCULATION**

**I. CRIMINAL HISTORY**

The PSR establishes that Mr. Garner has eleven (11) total criminal history points. See PSR, ¶ 44. This places Mr. Garner would be in Criminal History Category V. See PSR, ¶ 45.

**II. OFFENSE LEVEL**

The parties have signed a written plea agreement in accordance with Rules 11(c)(1)(A) and (B) of the Federal Rules of Criminal Procedure. See generally Plea Agreement. The parties agreed, in accordance with USSG § 2D1.1(c)(4), to a base offense level of 32, based on a drug quantity of 1.5 to 5 kg of methamphetamine. See Plea Agreement, ¶ 13. The PSR confirms this baseline offense level. See PSR, ¶ 20.

The United States will recommend a downward adjustment of two levels for acceptance of responsibility and should move for an additional one-level downward adjustment for timely

notifying the United States of his intent to enter a guilty plea in accordance with U.S.S.G. § 3E1.1(a) and (b). See Plea Agreement, ¶¶ 14-15. The PSR agrees with these adjustments. See PSIR, ¶¶ 22-23. This would result in a net offense level of 29, as confirmed by the PSR. See Id. at ¶ 24.

### **CONCLUSION**

Mr. Garner respectfully requests the Court find the adjusted offense level is 29, and his criminal history category is V, for a presumptive guideline range of 140-175 months. Mr. Garner may request additional adjustments and departure requests in the supplement filed with this memorandum.

Dated this 10<sup>th</sup> day of August, 2023.

**VOGEL LAW FIRM**

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